

# HOUSE . . . . . No. 2434

---

By Mr. Marzilli of Arlington, petition of J. James Marzilli, Jr., and others relative to the reporting of the combined taxable income of certain corporations. Revenue.

---

## The Commonwealth of Massachusetts

---

### PETITION OF:

J. James Marzilli, Jr.	Alice K. Wolf
Ellen Story	Timothy J. Toomey, Jr.
Carl M. Sciortino, Jr.	Patricia D. Jehlen
Ruth B. Balser	Dianne Wilkerson
Peter V. Kocot	Joyce A. Spiliotis
John W. Scibak	Martha M. Walz
Deborah D. Blumer	Karen E. Spilka
David Paul Linsky	Gloria L. Fox
James B. Leary	Stephen Kulik
Byron Rushing	

---

In the Year Two Thousand and Five.

---

AN ACT REQUIRING COMBINED TAXABLE INCOME REPORTING.

*Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:*

1 Chapter 63 of the Massachusetts General Laws is hereby  
2 amended by inserting after section 30, as appearing in the 2002  
3 Official Edition, the following section:—  
4 Section 30B. (a) For purposes of this chapter, the income of 2  
5 or more corporations, the voting stock of which is more than 50  
6 per cent owned directly or indirectly by a common owner, and  
7 which are engaged in an unitary business, except as provided in  
8 subsection (j) of section 38, shall be allocated or apportioned as if  
9 the group of corporations were a single corporation, in which  
10 event:

11 (1) The taxable income of any corporation subject to taxation  
12 in this commonwealth shall be determined by use of a combined  
13 report which includes the income of all corporations which are  
14 members of the unitary business, allocated and apportioned using  
15 apportionment factors for all corporations included in the com-  
16 bined report under the methods set out in this chapter.

17 (2) Subject to the limitations of clause (3), the combined report  
18 shall include, but shall not be limited to, the income of all corpo-  
19 rations which are members of the unitary business and are part of  
20 a combined group, as defined by, or are included in a combined  
21 report required by, the laws of another state.

22 (3) Notwithstanding the preceding clause, the combined report  
23 shall be limited to the following affiliated entities:

24 (i) a domestic international sales corporation, as described in  
25 Sections 991 to 994, inclusive, of the Internal Revenue Code and  
26 a foreign sales corporation as described in Sections 921 to 927,  
27 inclusive, of the Internal Revenue Code;

28 (ii) any corporation, other than a bank, life insurance company,  
29 or utility corporation within the meaning of this chapter, regard-  
30 less of the place where it is incorporated if the average of its prop-  
31 erty, payroll, and sales factors within the United States is 20 per  
32 cent or more;

33 (iii) a corporation incorporated in the United States, excluding a  
34 corporation making an election pursuant to Sections 931 to 936,  
35 inclusive, of the Internal Revenue Code or that is a bank, life  
36 insurance company, or utility corporation within the meaning of  
37 this chapter;

38 (iv) any corporation that is not described in clauses (i) to (iii),  
39 inclusive, or clause (v), but only to the extent of its income  
40 derived from or attributable to sources within the United States  
41 and its factors assignable to a location within the United States.  
42 Income of that corporation derived from or attributable to sources  
43 within the United States as determined by federal income tax laws  
44 shall be limited to and determined from the books of account  
45 maintained by the corporation with respect to its activities con-  
46 ducted within the United States;

47 (v) an export trade corporation, as described in Sections 970 to  
48 972, inclusive, of the Internal Revenue Code; and

49 (vi) any affiliated corporation which is a “controlled foreign  
50 corporation,” as defined in Section 957 of the Internal Revenue  
51 Code, if all or part of the income of that affiliate is defined in  
52 Section 952 of Subpart F of the Internal Revenue Code,  
53 “Subpart F income”. The income and apportionment factors of  
54 any affiliate to be included under this paragraph shall be deter-  
55 mined by multiplying the income and apportionment factors of  
56 that affiliate without application of this paragraph by a fraction,  
57 not to exceed 1, the numerator of which is the “Subpart F income”  
58 of that corporation for that taxable year and the denominator of  
59 which is the “earnings and profits” of that corporation for that tax-  
60 able year, as defined in Section 964 of the Internal Revenue Code.

61 (b) The commissioner shall adopt regulations necessary to  
62 ensure that the tax liability or net income of any corporation  
63 whose income is derived from or attributable to sources within  
64 this commonwealth and which is required to submit a report under  
65 subsection (a), and of each entity included in said report, both  
66 during and after the period of inclusion in the combined report, is  
67 properly reported, determined, computed, assessed, collected, or  
68 adjusted.